

AMENDED IN SENATE APRIL 25, 2007

AMENDED IN SENATE APRIL 9, 2007

AMENDED IN SENATE MARCH 26, 2007

SENATE BILL

No. 5

Introduced by Senator Machado

December 4, 2006

An act to amend Section 65584.04 of, and to add Sections 65302.7, ~~65302.9~~, ~~65405~~, ~~65962~~, ~~65962.1~~, ~~65962.2~~, ~~66474.10~~, and ~~66474.11~~ ~~65860.1~~, ~~65962~~, and ~~66474.5~~ to, the Government Code, to add Section 50465 to the Health and Safety Code, to add Section ~~21151.9.5~~ ~~21151.11~~ to the Public Resources Code, and to add Article 8 (commencing with Section 8724) to Chapter 3 of Part 4 of Division 5 of the Water Code, relating to flood management.

LEGISLATIVE COUNSEL'S DIGEST

SB 5, as amended, Machado. Flood management.

(1) The existing Disaster Preparedness and Flood Prevention Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects. That existing act requires the compilation of a state plan of flood control.

The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006, approved by the voters at the November 7, 2006, statewide general election, authorizes the issuance and sale of bonds in the amount of \$5,388,000,000 to fund projects and expenditures relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection,

water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts.

This bill would make legislative findings and declarations regarding the necessity of developing a comprehensive integrated flood policy and flood management program that addresses all aspects of flood management, clarifying the roles and responsibilities of the state, local flood management agencies, cities and counties, developers, and property owners as part of an integrated flood policy, and integrating the flood-related funding authorized by those bond acts with the integrated flood policy and flood management program.

(2) The Department of Water Resources performs various flood control activities throughout the state. Existing law authorizes the Reclamation Board to engage in various flood control activities along the Sacramento River and San Joaquin River, their tributaries, and related areas.

This bill would require the department, on or before January 1, in years ending in 0 and 5, to prepare the Sacramento-San Joaquin River Flood Management System Plan. The bill would require the board, on or before March 31, in years ending in 0 and 5, to adopt the plan.

The bill would require the plan to include specified components, including a description of the Sacramento-San Joaquin River Flood Management System, ~~as described,~~ a description of the performance of the system and challenges to modifying the system to provide appropriate levels of flood protection, and findings and recommendations with regard to structural and nonstructural projects that, upon completion, will significantly reduce flood risks within the Sacramento and San Joaquin Rivers drainage. The department would be required to include in the plan evaluations of the methods for improving the performance of the system, the structural improvements necessary to bring each of the facilities of the State Plan of Flood Control for the Central Valley, as defined, to within its design standard, methods for providing an urban level of flood protection to urbanized areas, and methods for reducing flood risks in nonurbanized areas.

Upon the adoption of the plan by the board, specified facilities would be deemed to be part of the system and the board would be required to take action necessary to remove certain facilities from the State Plan of Flood Control for the Central Valley. The department would be required to prepare, and the board to adopt, a schedule of implementation for recommended actions.

The bill would also require *specified* local governments, ~~by an unspecified date, to revise the local general plan to adequately address flood risks, to collaborate with local flood agencies to develop and provide technical information and support to identify parcels that may be protected by the plan or other flood management facilities, to collaborate with the state and local flood management agencies to provide relocation assistance or other cost-effective strategies for reducing flood risk to existing economically disadvantaged communities located in nonurbanized areas, to develop funding mechanisms to finance local flood responsibilities, and to provide public notice of specific areas that may be protected by a flood control facility or that are located in a flood hazard area, as specified, thereby creating a state-mandated local program within 12 months of the adoption of the plan by the board, to amend the general plan to include (A) the data and analysis contained in the plan, as specified, (B) goals, policies, and objectives based on the data and analysis contained in the plan, and (C) feasible implementation measures designed to carry out the goals, policies, and objectives, and would require the board, the department, and local flood agencies to collaborate with cities and counties by providing information, other technical assistance, and to develop funding mechanisms to finance local flood responsibilities, as specified. The bill would require each local government, as specified within 24 months of the adoption of the plan by the board, to amend its zoning ordinance so that the zoning ordinance is consistent with the amendments to the general plan. The bill would also require local governments, within 24 months of the adoption of the plan by the board, but not more than 12 months after the required amendment of the general plan, to identify each parcel of real property that is protected by specified flood management facilities, each parcel of real property that is located in a flood hazard area, and mail notice to the owner of those identified properties, as specified.~~

~~The bill would also require local governments, by an unspecified date, to explicitly address flood risks in approvals for all projects located in flood hazard zones, and deny approval or require reasonable mitigation or building standards for any project located in an area protected by flood control facilities that do not meet specified designated performance standards or the increased level of protections require specified local governments, after the required amendment to the general plan, to deny approval for any permit, use permit, conditional use permit, special use permit, building permit, or other entitlement for use~~

for a project that is located within an area protected by specified flood management facilities, or located within a flood control area, and to deny approval of a tentative map, or a parcel map, for any subdivision that is located within an area protected by specified flood management facilities, or is located within a flood control area unless the local government makes certain findings. The bill would also require local governments, by an unspecified date, after adoption of the plan by the board, to explicitly address flood risks in any environmental impact report, land evaluation and site assessment, negative declaration, mitigated negative declaration, or other environmental review documents filed pursuant to the California Environmental Quality Act, for projects located in an area protected by specified flood management facilities or located within a flood control area. Each county is would also be required, by an unspecified date, to collaborate with the cities within its jurisdiction to develop flood emergency plans, thereby creating a state-mandated local program.

The imposition of the above requirements on specified local governments would impose a state-mandated local program.

(3) The Planning and Zoning Law requires at least 2 years prior to a scheduled revision of a local government's housing element that each council of governments, or delegate subregion, as applicable, develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to specified provisions. That law requires that the methodology be consistent with specified objectives that include, among other things, a determination of the availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities.

The bill would provide that the determination of available land suitable for urban development may exclude lands where the flood management infrastructure designed to protect the jurisdiction is not adequate to avoid the risk of flooding such that the development of housing would be impractical due to cost or other considerations.

(4) Existing law requires the *California* Building Standards Commission to receive proposed building standards from state agencies for consideration in an annual code adoption cycle, as specified.

This bill would require the Department of Housing and Community Development, in consultation with the Office of the State Architect, the

State Fire Marshal, *the State Reclamation Board*, and the Department of Water Resources, ~~during the next annual building standards code adoption cycle conducted by the Building Standards Commission, after January 1, 2008, to consider whether to propose updated requirements to the code for construction in an area where flood levels are anticipated to exceed 3 feet for the 100-year flood event, as specified, and would require the Department of Housing and Community Development, if the department decides not to make a proposal to the Building Standards Commission, to explain in writing the reasons for its decision, and submit that explanation to the Legislature by January 1, 2009, to propose to the California Building Standards Commission, amendments to the California Building Standards Code, that apply to construction that is located in an area protected by flood management faculties, or located within a flood area, as specified.~~

(5) *The bill would make legislative findings and declarations that flood protection in the Sacramento and San Joaquin Rivers drainage areas is a matter of statewide concern.*

~~(5)~~

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) To successfully improve state flood policy and reduce flood
- 4 risks, it is necessary to develop a comprehensive integrated flood
- 5 policy and flood management program that addresses all aspects
- 6 of flood management.
- 7 (b) Further, as part of an integrated flood policy, it is necessary
- 8 to clarify the roles and responsibilities of the state, local flood
- 9 management agencies, cities and counties, and developers and
- 10 other property owners.

(c) It is also necessary to integrate the flood-related funding authorized by the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Chapter 1.699 (commencing with Section 5096.800) of Division 5 of the Public Resources Code) and the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Division 43 (commencing with Section 75001) of the Public Resources Code) with the integrated flood policy and flood management program. As part of this integration of policy with financing, it is important that cost-sharing rules for flooding be consistent statewide.

(d) In expending the bond funds, the priority should be to protect current populations, public safety, and public safety infrastructure.

(e) Many urban populations have an inadequate level of flood protection. At the 4th Biennial CALFED Science Conference 2006, credible evidence was presented suggesting that a 500-year level of flood protection is the minimum level of protection that should be considered for urbanized areas.

(f) The integrated strategy for improving the level of flood protection should include changes in land use and land use planning. Changes in land use planning requirements should begin as soon as practicable. The start date for these changes will be dependent upon a number of events, including, but not limited to, all of the following:

(1) When new flood risk maps are available.

(2) When the Department of Water Resources and the Reclamation Board have completed their assessments of the current performance of state flood control.

(3) When the Department of Water Resources and the Reclamation Board have amended the state plan of flood control to add or remove facilities.

(4) When the Department of Water Resources and the Reclamation Board have identified and adopted a schedule for implementing structural and nonstructural improvements to the state plan of flood control that improve the operation of the system and reduce flood risk systemwide.

(5) When the Department of Water Resources, local flood management agencies, and cities and counties have identified and adopted a schedule for implementing structural and nonstructural improvements to the state plan of flood control that improve the operation of the system and reduce flood risk systemwide.

SEC. 2. Section 65302.7 is added to the Government Code, to read:

~~65302.7. Following the adoption of the Sacramento-San Joaquin River Flood Management System Plan, pursuant to Article 8 (commencing with Section 8724) of the Water Code, each city, county, or city and county shall, by _____, following the completion and dissemination of the new Department of Water Resources flood risk and depth of flooding maps, revise the general plans of the city, county, or city and county, to adequately address flood risks for all new development, including, but not limited to, new residential subdivisions, consistent with the requirements of Sections 65302.9, 65405, 66474.10, and 66474.11, Section 21151.9.5 of the Public Resources Code, and Sections 2728, 2728.1, and 2728.2 of the Water Code.~~

65302.7. (a) *Within 12 months of the adoption of the Sacramento-San Joaquin River Flood Management System Plan by the State Reclamation Board pursuant to Article 8 (commencing with Section 8724) of Chapter 3 of Part 4 of Division 5 of the Water Code, each city or county included in the system, pursuant to Section 8727 of the Water Code, shall amend its general plan to contain the following:*

(1) *The data and analysis contained in the Sacramento-San Joaquin River Flood Management System Plan, including, but not limited to, the locations of the facilities of the State Plan of Flood Control for the Central Valley, the locations of other flood management facilities, the locations of the real property protected by those facilities, and the locations of flood hazard areas.*

(2) *Goals, policies, and objectives, based on the data and analysis identified pursuant to paragraph (1), for the protection of lives and property from the unreasonable risks of flooding.*

(3) *Feasible implementation measures designed to carry out the goals, policies, and objectives established pursuant to paragraph (2).*

(b) *To assist each city or county in complying with this section, the State Reclamation Board, the State Department of Water Resources, and local flood agencies shall collaborate with cities or counties by providing them with information and other technical assistance.*

(c) *In implementing this section, each city and county, both general law and charter, included in the system, pursuant to*

1 *Section 8727 of the Water Code, shall comply with this article,*
2 *including, but not limited to, Sections 65300.5, 65300.7, 65300.9,*
3 *and 65301.*

4 *(d) Notwithstanding any other provision of law, this section*
5 *applies to all cities, including charter cities, and counties included*
6 *in the system, pursuant to Section 8727 of the Water Code. The*
7 *Legislature finds and declares that flood protection in the*
8 *Sacramento and San Joaquin Rivers drainage areas is a matter*
9 *of statewide concern and not a municipal affair as that term is*
10 *used in Section 5 of Article XI of the California Constitution.*

11 ~~SEC. 3. Section 65302.9 is added to the Government Code, to~~
12 ~~read:~~

13 ~~65302.9. Consistent with the adoption of the Sacramento-San~~
14 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
15 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
16 ~~county, or city and county shall develop and provide technical~~
17 ~~information and support by collaborating with local flood agencies~~
18 ~~to identify parcels that may be protected by the state plan of flood~~
19 ~~control or other flood management facilities, and, if known, the~~
20 ~~extent of the protection.~~

21 ~~SEC. 4. Section 65405 is added to the Government Code, to~~
22 ~~read:~~

23 ~~65405. Consistent with the adoption of the Sacramento-San~~
24 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
25 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
26 ~~county, or city and county shall provide public notice of specific~~
27 ~~areas that may be protected by a flood control facility or that are~~
28 ~~located in a flood hazard area, including, information on where~~
29 ~~residents can obtain further information about degree of protection,~~
30 ~~recommended flood insurance in such areas, and advising residents~~
31 ~~on the consequences of failing to have insurance in the event of a~~
32 ~~flood.~~

33 ~~SEC. 3. Section 65405 is added to the Government Code, to~~
34 ~~read:~~

35 ~~65405. (a) Within 24 months of the adoption of the~~
36 ~~Sacramento-San Joaquin River Flood Management System Plan~~
37 ~~by the State Reclamation Board pursuant to Article 8 (commencing~~
38 ~~with Section 8724) of Chapter 3 of Part 4 of Division 5 of the~~
39 ~~Water Code, but not more than 12 months after the amendment of~~
40 ~~its general plan pursuant to Section 65302.7, each city or county~~

1 *included in the system, pursuant to Section 8727 of the Water*
2 *Code, shall do all of the following:*

3 *(1) Identify each parcel of real property that is protected by the*
4 *facilities of the State Plan of Flood Control for the Central Valley*
5 *or other flood management facilities.*

6 *(2) Identify each parcel of real property that is located in a*
7 *flood hazard area.*

8 *(3) Mail a notice to the owner of each parcel of real property*
9 *identified pursuant to paragraphs (1) and (2).*

10 *(b) The notice mailed pursuant to subdivision (a) shall state all*
11 *of the following:*

12 *(1) Whether a parcel is protected by the facilities of the State*
13 *Plan of Flood Control for the Central Valley or other flood*
14 *management facilities, or whether the parcel is located in a flood*
15 *hazard area.*

16 *(2) The degree of flood protection, if known.*

17 *(3) How the owner can obtain more information about flood*
18 *protection.*

19 *(4) How the owner can obtain flood insurance.*

20 *(5) The consequences of failing to have flood insurance in the*
21 *event of a flood.*

22 *(c) If the number of owners to whom notice would be mailed*
23 *pursuant to this section is greater than 1,000, a city or county may*
24 *instead provide notice by placing a display advertisement of at*
25 *least one-eighth page in at least one newspaper of general*
26 *circulation within the city or county.*

27 *(d) In addition to the notice required by this section, a city or*
28 *county may give notice by any other means it deems necessary or*
29 *desirable.*

30 *(e) Notwithstanding any other provision of law, this section*
31 *applies to all cities, including charter cities, and counties included*
32 *in the system, pursuant to Section 8727 of the Water Code. The*
33 *Legislature finds and declares that flood protection in the*
34 *Sacramento and San Joaquin Rivers drainage areas is a matter*
35 *of statewide concern and not a municipal affair as that term is*
36 *used in Section 5 of Article XI of the California Constitution.*

37 ~~SEC. 5.~~

38 *SEC. 4. Section 65584.04 of the Government Code is amended*
39 *to read:*

1 65584.04. (a) At least two years prior to a scheduled revision
2 required by Section 65588, each council of governments, or
3 delegate subregion as applicable, shall develop a proposed
4 methodology for distributing the existing and projected regional
5 housing need to cities, counties, and cities and counties within the
6 region or within the subregion, where applicable pursuant to this
7 section. The methodology shall be consistent with the objectives
8 listed in subdivision (d) of Section 65584.

9 (b) (1) No more than six months prior to the development of a
10 proposed methodology for distributing the existing and projected
11 housing need, each council of governments shall survey each of
12 its member jurisdictions to request, at a minimum, information
13 regarding the factors listed in subdivision (d) that will allow the
14 development of a methodology based upon the factors established
15 in subdivision (d).

16 (2) The council of governments shall seek to obtain the
17 information in a manner and format that is comparable throughout
18 the region and utilize readily available data to the extent possible.

19 (3) The information provided by a local government pursuant
20 to this section shall be used, to the extent possible, by the council
21 of governments, or delegate subregion as applicable, as source
22 information for the methodology developed pursuant to this section.
23 The survey shall state that none of the information received may
24 be used as a basis for reducing the total housing need established
25 for the region pursuant to Section 65584.01.

26 (4) If the council of governments fails to conduct a survey
27 pursuant to this subdivision, a city, county, or city and county may
28 submit information related to the items listed in subdivision (d)
29 prior to the public comment period provided for in subdivision
30 (c).

31 (c) Public participation and access shall be required in the
32 development of the methodology and in the process of drafting
33 and adoption of the allocation of the regional housing needs.
34 Participation by organizations other than local jurisdictions and
35 councils of governments shall be solicited in a diligent effort to
36 achieve public participation of all economic segments of the
37 community. The proposed methodology, along with any relevant
38 underlying data and assumptions, and an explanation of how
39 information about local government conditions gathered pursuant
40 to subdivision (b) has been used to develop the proposed

1 methodology, and how each of the factors listed in subdivision (d)
2 is incorporated into the methodology, shall be distributed to all
3 cities, counties, any subregions, and members of the public who
4 have made a written request for the proposed methodology. The
5 council of governments, or delegate subregion, as applicable, shall
6 conduct at least one public hearing to receive oral and written
7 comments on the proposed methodology.

8 (d) To the extent that sufficient data is available from local
9 governments pursuant to subdivision (b) or other sources, each
10 council of governments, or delegate subregion as applicable, shall
11 include the following factors to develop the methodology that
12 allocates regional housing needs:

13 (1) Each member jurisdiction's existing and projected jobs and
14 housing relationship.

15 (2) The opportunities and constraints to development of
16 additional housing in each member jurisdiction, including all of
17 the following:

18 (A) Lack of capacity for sewer or water service due to federal
19 or state laws, regulations or regulatory actions, or supply and
20 distribution decisions made by a sewer or water service provider
21 other than the local jurisdiction that preclude the jurisdiction from
22 providing necessary infrastructure for additional development
23 during the planning period.

24 (B) The availability of land suitable for urban development or
25 for conversion to residential use, the availability of underutilized
26 land, and opportunities for infill development and increased
27 residential densities. The council of governments may not limit
28 its consideration of suitable housing sites or land suitable for urban
29 development to existing zoning ordinances and land use restrictions
30 of a locality, but shall consider the potential for increased
31 residential development under alternative zoning ordinances and
32 land use restrictions. The determination of available land suitable
33 for urban development may exclude lands where the flood
34 management infrastructure designed to protect that land is not
35 adequate to avoid the risk of flooding such that the development
36 of housing on that land would be infeasible because of cost or
37 other considerations. Information from the Reclamation Board,
38 the Army Corps of Engineers, or other sources may be used to
39 support determinations made pursuant to this subparagraph.

1 (C) Lands preserved or protected from urban development under
2 existing federal or state programs, or both, designed to protect
3 open space, farmland, environmental habitats, and natural resources
4 on a long-term basis.

5 (D) County policies to preserve prime agricultural land, as
6 defined pursuant to Section 56064, within an unincorporated area.

7 (3) The distribution of household growth assumed for purposes
8 of a comparable period of regional transportation plans and
9 opportunities to maximize the use of public transportation and
10 existing transportation infrastructure.

11 (4) The market demand for housing.

12 (5) Agreements between a county and cities in a county to direct
13 growth toward incorporated areas of the county.

14 (6) The loss of units contained in assisted housing developments,
15 as defined in paragraph (8) of subdivision (a) of Section 65583,
16 that changed to non-low-income use through mortgage prepayment,
17 subsidy contract expirations, or termination of use restrictions.

18 (7) High-housing costs burdens.

19 (8) The housing needs of farmworkers.

20 (9) The housing needs generated by the presence of a private
21 university or a campus of the California State University or the
22 University of California within any member jurisdiction.

23 (10) Any other factors adopted by the council of governments.

24 (e) The council of governments, or delegate subregion, as
25 applicable, shall explain in writing how each of the factors
26 described in subdivision (d) was incorporated into the methodology
27 and how the methodology is consistent with subdivision (d) of
28 Section 65584. The methodology may include numerical weighting.

29 (f) Any ordinance, policy, voter-approved measure, or standard
30 of a city or county that directly or indirectly limits the number of
31 residential building permits issued by a city or county shall not be
32 a justification for a determination or a reduction in the share of a
33 city or county of the regional housing need.

34 (g) In addition to the factors identified pursuant to subdivision
35 (d), the council of governments, or delegate subregion, as
36 applicable, shall identify any existing local, regional, or state
37 incentives, such as a priority for funding or other incentives
38 available to those local governments that are willing to accept a
39 higher share than proposed in the draft allocation to those local

1 governments by the council of governments or delegate subregion
2 pursuant to Section 65584.05.

3 (h) Following the conclusion of the 60-day public comment
4 period described in subdivision (c) on the proposed allocation
5 methodology, and after making any revisions deemed appropriate
6 by the council of governments, or delegate subregion, as applicable,
7 as a result of comments received during the public comment period,
8 each council of governments, or delegate subregion, as applicable,
9 shall adopt a final regional, or subregional, housing need allocation
10 methodology and provide notice of the adoption of the
11 methodology to the jurisdictions within the region, or delegate
12 subregion as applicable, and to the department.

13 ~~SEC. 6. Section 65962 is added to the Government Code, to~~
14 ~~read:~~

15 ~~65962. Following the adoption of the Sacramento-San Joaquin~~
16 ~~River Flood Management System Plan, pursuant to Article 8~~
17 ~~(commencing with Section 8724) of the Water Code, each city,~~
18 ~~county, or city and county shall, by _____, explicitly address flood~~
19 ~~risks in approvals for all projects located in flood hazard zones;~~
20 ~~consistent with revisions to the general plan required by Section~~
21 ~~65302.7.~~

22 ~~SEC. 7. Section 65962.1 is added to the Government Code, to~~
23 ~~read:~~

24 ~~65962.1. Following the adoption of the Sacramento-San~~
25 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
26 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
27 ~~county, or city and county shall, after _____, deny approval or~~
28 ~~require feasible mitigation or building standards for any project~~
29 ~~located in an area protected by flood control facilities that do not~~
30 ~~meet the design performance standards specified in Section 8727~~
31 ~~of the Water Code.~~

32 ~~SEC. 8. Section 65962.2 is added to the Government Code, to~~
33 ~~read:~~

34 ~~65962.2. Following the adoption of the Sacramento-San~~
35 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
36 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
37 ~~county, or city and county shall, after _____, deny approval or~~
38 ~~require appropriate mitigation or building standards for any project~~
39 ~~located in an area protected by flood control facilities that do not~~

1 meet the increased level of protection as determined pursuant to
2 Section 8727 of the Water Code.

3 ~~SEC. 9. Section 66474.10 is added to the Government Code,~~
4 ~~to read:~~

5 ~~66474.10. Following the adoption of the Sacramento-San~~
6 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
7 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
8 ~~county, or city and county shall, after _____, deny approval or~~
9 ~~require feasible mitigation or building standards for any project~~
10 ~~located in an area protected by flood control facilities that do not~~
11 ~~meet the design performance standards specified in Section 8727~~
12 ~~of the Water Code.~~

13 ~~SEC. 10. Section 66474.11 is added to the Government Code,~~
14 ~~to read:~~

15 ~~66474.11. Following the adoption of the Sacramento-San~~
16 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
17 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
18 ~~county, or city and county shall, after _____, deny approval or~~
19 ~~require appropriate mitigation or building standards for any project~~
20 ~~located in an area protected by flood control facilities that do not~~
21 ~~meet the increased level of protection as determined pursuant to~~
22 ~~Section 8727 of the Water Code.~~

23 ~~SEC. 11. Section 50465 is added to the Health and Safety Code,~~
24 ~~to read:~~

25 ~~50465. In the next annual building standards code adoption~~
26 ~~cycle conducted by the Building Standards Commission, that~~
27 ~~begins after January 1, 2008, the department, in consultation with~~
28 ~~the Office of the State Architect, the State Fire Marshal, and the~~
29 ~~Department of Water Resources, shall consider whether to propose~~
30 ~~for adoption and approval by the Building Standards Commission~~
31 ~~of updated requirements to the code for construction in an area~~
32 ~~where flood levels are anticipated to exceed three feet for the~~
33 ~~100-year flood event. If the department makes a proposal to the~~
34 ~~commission, the commission shall take action in that annual~~
35 ~~building standards code adoption cycle to adopt and approve or to~~
36 ~~not adopt and approve the proposal. If the department decides not~~
37 ~~to make a proposal, the department shall explain in writing the~~
38 ~~reasons for its decision, and shall submit that explanation to the~~
39 ~~Legislature.~~

1 ~~SEC. 12. Section 21151.9.5 is added to the Public Resources~~
2 ~~Code, to read:~~

3 ~~21151.9.5. Following the adoption of the Sacramento-San~~
4 ~~Joaquin River Flood Management System Plan, pursuant to Article~~
5 ~~8 (commencing with Section 8724) of the Water Code, each city,~~
6 ~~county, or city and county shall, by _____, explicitly address flood~~
7 ~~risks in any environmental impact report, land evaluation and site~~
8 ~~assessment, negative declaration, mitigated negative declaration,~~
9 ~~or other environmental review documents.~~

10 ~~SEC. 5. Section 65860.1 is added to the Government Code, to~~
11 ~~read:~~

12 ~~65860.1. (a) Within 24 months of the adoption of the~~
13 ~~Sacramento-San Joaquin River Flood Management System Plan~~
14 ~~by the State Reclamation Board pursuant to Article 8 (commencing~~
15 ~~with Section 8724) of Chapter 3 of Part 4 of Division 5 of the~~
16 ~~Water Code, but not more than 12 months after the amendment of~~
17 ~~its general plan pursuant to Section 65302.7, each city or county~~
18 ~~shall amend its zoning ordinance so that it is consistent with the~~
19 ~~general plan as amended.~~

20 ~~(b) Notwithstanding any other provision of law, this section~~
21 ~~applies to all cities, including charter cities and counties included~~
22 ~~in the plan, pursuant to Section 8727 of the Water Code. The~~
23 ~~Legislature finds and declares that flood protection in the~~
24 ~~Sacramento and San Joaquin Rivers drainage areas is a matter~~
25 ~~of statewide concern and not a municipal affair as that term is~~
26 ~~used in Section 5 of Article XI of the California Constitution.~~

27 ~~SEC. 6. Section 65962 is added to the Government Code, to~~
28 ~~read:~~

29 ~~65962. Notwithstanding any other provision of law, after a city~~
30 ~~or county amends its general plan pursuant to Section 65302.7,~~
31 ~~the city or county shall not approve any permit, use permit,~~
32 ~~conditional use permit, special use permit, building permit, or any~~
33 ~~other entitlement for use, whether discretionary or ministerial, for~~
34 ~~a project that is located within an area protected by the facilities~~
35 ~~of the State Plan of Flood Control for the Central Valley or other~~
36 ~~flood management facilities, or located within a flood control area~~
37 ~~unless the city or county finds, based on substantial evidence in~~
38 ~~the record, one of the following:~~

1 (a) *The facilities of the State Plan of Flood Control for the*
2 *Central Valley or other flood management facilities protect the*
3 *project from the unreasonable risks of flooding.*

4 (b) *The city or county has imposed conditions on the permit that*
5 *will protect the project from the unreasonable risks of flooding.*
6 *These conditions may include, but are not limited to, building*
7 *standards and other mitigation measures.*

8 SEC. 7. *Section 66474.5 is added to the Government Code, to*
9 *read:*

10 66474.5. *Notwithstanding any other provision of law, after the*
11 *adoption of the Sacramento-San Joaquin River Flood Management*
12 *System Plan by the State Reclamation Board pursuant to Article*
13 *8 (commencing with Section 8724) of Chapter 3 of Part 4 of*
14 *Division 5 of the Water Code, the legislative body of a city or*
15 *county included in the plan, pursuant to Section 8727 of the Water*
16 *Code, shall deny approval of a tentative map, or a parcel map for*
17 *which a tentative map was not required, for any subdivision that*
18 *is located within an area protected by the facilities of the State*
19 *Plan of Flood Control for the Central Valley or other flood*
20 *management facilities, or located within a flood control area unless*
21 *the city or county finds, based on substantial evidence in the*
22 *record, one of the following:*

23 (a) *The facilities of the State Plan of Flood Control for the*
24 *Central Valley or other flood management facilities protect the*
25 *subdivision from the unreasonable risks of flooding.*

26 (b) *The city or county has imposed conditions on the subdivision*
27 *that will protect the subdivision from the unreasonable risks of*
28 *flooding. These conditions may include, but are not limited to,*
29 *building standards and other mitigation measures.*

30 SEC. 8. *Section 50465 is added to the Health and Safety Code,*
31 *to read:*

32 50465. (a) *On or before January 1, 2009, the department shall*
33 *propose to the California Building Standards Commission,*
34 *pursuant to Part 2.5 (commencing with Section 18901),*
35 *amendments to the California Building Standards Code that apply*
36 *to construction that is located in an area protected by the facilities*
37 *of the State Plan of Flood Control for the Central Valley or other*
38 *flood management facilities, or located within a flood control area.*
39 *The amendments to the California Building Standards Code shall*

1 *be sufficient to protect the construction in those areas from the*
2 *unreasonable risks of flooding.*

3 *(b) Before the department proposes the amendments to the*
4 *California Building Standards Code required pursuant to*
5 *subdivision (a), the department shall consult with the State*
6 *Reclamation Board, the State Department of Water Resources, the*
7 *Office of the State Architect, and the State Fire Marshal.*

8 *SEC. 9. Section 21151.11 is added to the Public Resources*
9 *Code, to read:*

10 *21151.11. After the adoption of the Sacramento-San Joaquin*
11 *River Flood Management System Plan by the State Reclamation*
12 *Board pursuant to Article 8 (commencing with Section 8724) of*
13 *Chapter 3 of Part 4 of Division 5 of the Water Code, if a project*
14 *is located in an area protected by the facilities of the State Plan*
15 *of Flood Control for the Central Valley or other flood management*
16 *facilities, or located within a flood control area, the city or county*
17 *shall explicitly address flood risks in any environmental impact*
18 *report, land evaluation and site assessment, negative declaration,*
19 *mitigated negative declaration, or other environmental review*
20 *documents.*

21 ~~SEC. 13.~~

22 *SEC. 10. Article 8 (commencing with Section 8724) is added*
23 *to Chapter 3 of Part 4 of Division 5 of the Water Code, to read:*

24
25 Article 8. Sacramento-San Joaquin River Flood Management
26 System
27

28 8724. Unless the context requires otherwise, the definitions
29 set forth in this section govern the construction of this article.

30 (a) “Plan” means the Sacramento-San Joaquin River Flood
31 Management System Plan.

32 (b) “State Plan of Flood Control for the Central Valley” has the
33 meaning set forth in subdivision (j) of Section 5096.805 of the
34 Public Resources Code.

35 (c) “System” means the Sacramento-San Joaquin River Flood
36 Management System described in Section 8725.

37 8725. The Sacramento-San Joaquin River Flood Management
38 System comprises all of the following:

39 (a) The facilities of the State Plan of Flood Control for the
40 Central Valley as that plan may be amended pursuant to this article.

(b) Any existing dam, levee, or other flood management facility that is not part of the State Plan of Flood Control for the Central Valley that the board determines, pursuant to this article, does one or more of the following:

(1) Provides significant systemwide benefits for managing flood risks within the Sacramento and San Joaquin Rivers drainage.

(2) Protects urban areas within the Sacramento and San Joaquin Rivers drainage.

(c) Structural and nonstructural projects that are adopted by the board pursuant to this article and designed to reduce flood risks within the Sacramento and San Joaquin Rivers drainage.

8725.5. (a) The department shall prepare, and the board shall adopt, the Sacramento-San Joaquin River Flood Management System Plan in accordance with this article.

(b) On or before January 1, in years ending in 0 and 5, the department shall submit the proposed plan to the board.

(c) The board shall hold at least two hearings to receive comments on the proposed plan. At least one hearing shall be held in the Sacramento Valley and at least one hearing shall be held in the San Joaquin Valley. The board shall also accept comments in writing with regard to the proposed plan.

(d) The board may make changes to the proposed plan to resolve issues raised in the hearings or to respond to comments received by the board. The board shall publish its proposed changes to the proposed plan at least two weeks before adopting the plan.

(e) On or before March 31, in years ending in 0 and 5, the board shall adopt the plan.

~~8726. The preparation of the plan pursuant to this article is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).~~

~~8726.5.~~

8726. The department or the board may appoint one or more advisory committees to assist in the preparation of the plan.

8727. The plan shall include all of the following:

(a) A description of the Sacramento-San Joaquin River Flood Management System *and the cities and counties included in the system.*

(b) A description of the performance of the system and the challenges to modifying the system to provide appropriate levels of flood protection, and findings and recommendations with regard

1 to structural and nonstructural projects that, upon completion, will
2 significantly reduce flood risks within the Sacramento and San
3 Joaquin Rivers drainage.

4 (c) A description of the facilities of the State Plan of Flood
5 Control for the Central Valley, including all of the following:

6 (1) The precise location and a brief description of each facility,
7 a description of the population and property protected by the
8 facility, the system benefits provided by the facility, if any, and a
9 brief history of the facility, including the year of construction,
10 major improvements to the facility, and any failures of the facility.

11 (2) The design performance of each facility.

12 (3) A description and evaluation of the performance of each
13 facility, including the following:

14 (A) An evaluation of failure risks due to each of the following:

15 (i) Overtopping.

16 (ii) Under seepage.

17 (iii) Structural failure.

18 (iv) Seismic events.

19 (v) Other sources of risk that the department or the board
20 determines are applicable.

21 (B) A description of any uncertainties regarding performance
22 capability, including uncertainties arising from the need for
23 additional engineering evaluations or uncertainties arising from
24 changed conditions such as changes in estimated channel
25 capacities.

26 (d) A description of each existing dam that is not part of the
27 State Plan of Flood Control for the Central Valley that provides
28 either significant systemwide benefits for managing flood risks
29 within the Sacramento and San Joaquin Rivers drainage or protects
30 urban areas within the Sacramento and San Joaquin Rivers
31 drainage, including all of the following information:

32 (1) The precise location and a brief description of each facility,
33 a description of the population and property protected by the
34 facility, and a brief history of the facility, including the year of
35 construction, major improvements to the facility, and any
36 uncontrolled releases of the facility.

37 (2) The standard project flood event upon which the flood
38 operation rules were based.

39 (3) A description of downstream conditions upon which the
40 flood operation rules were based, including estimated channel

1 capacities, level of urban development, and other conditions that
2 the department or the board determines to be relevant.

3 (4) A description of changes in downstream conditions since
4 the flood operation rules were established.

5 (e) A description of each existing levee and other flood
6 management facility not described in subdivision (d) that is not
7 part of the State Plan of Flood Control for the Central Valley that
8 provides either significant systemwide benefits for managing flood
9 risks within the Sacramento and San Joaquin Rivers drainage or
10 protects urban areas within the Sacramento and San Joaquin Rivers
11 drainage, including all of the following:

12 (1) The precise location and a brief description of each facility,
13 a description of the population and property protected by the
14 facility, the system benefits provided by the facility, if any, and a
15 brief history of the facility, including the year of construction,
16 major improvements to the facility, and any failures of the facility.

17 (2) The design performance of each facility.

18 (3) A description and evaluation of the performance of each
19 facility, including the following:

20 (A) An evaluation of failure risks due to each of the following:

21 (i) Overtopping.

22 (ii) Under seepage.

23 (iii) Structural failure.

24 (iv) Seismic events.

25 (v) Other sources of risk that the department or the board
26 determines are applicable.

27 (B) A description of any uncertainties regarding performance
28 capability, including uncertainties arising from the need for
29 additional engineering evaluations or uncertainties arising from
30 changed conditions such as changes in estimated channel
31 capacities.

32 (f) A description of the probable impacts of projected climate
33 change, projected land use patterns, and other potential flood
34 management challenges on the ability of the system to provide
35 adequate levels of flood protection.

36 (g) An evaluation of both structural and nonstructural methods
37 for improving systemwide performance of the system. The
38 evaluation shall include a prioritized list of recommended actions
39 necessary to improve the performance of the system.

1 (h) An evaluation of the structural improvements necessary to
2 bring each of the facilities of the State Plan of Flood Control for
3 the Central Valley to within its design standard.

4 (1) The evaluation shall include a prioritized list of
5 recommended actions necessary to bring each facility not identified
6 in paragraph (2) to within its design standard.

7 (2) The evaluation shall include a list of facilities recommended
8 to be removed from the State Plan of Flood Control for the Central
9 Valley. For each facility recommended for removal, the evaluation
10 shall identify both of the following:

11 (A) The reasons for proposing the removal of the facility from
12 the State Plan of Flood Control for the Central Valley.

13 (B) Any additional recommended actions associated with
14 removing the facility from the State Plan of Flood Control for the
15 Central Valley.

16 (i) (1) An evaluation of both structural and nonstructural
17 methods for providing an urban level of flood protection to
18 currently urbanized areas. The evaluation shall include a prioritized
19 list of recommended actions to improve urban flood protection.

20 (2) For purposes of this subdivision, “urban level of flood
21 protection” means that level of protection necessary to protect
22 against both of the following:

23 (A) A “___ flood,” which means a hypothetical flood
24 representing ___.

25 (B) A ___ percent probability of flooding in any one year.

26 (j) An evaluation of both structural and nonstructural methods
27 for reducing flood risks in currently nonurbanized areas. The
28 evaluation shall include a prioritized list of recommended actions
29 to reduce these flood risks.

30 (k) An evaluation of both structural and nonstructural methods
31 for improving public trust resources and beneficial uses of flood
32 water where these improvements also contribute to reducing flood
33 risks.

34 (l) The prioritization of recommended actions required under
35 this section shall be based on the following criteria:

36 (1) The likelihood of failure by the levee or facility.

37 (2) The current population protected by the levee or facility.

38 (3) The public safety infrastructure protected by the levee or
39 facility. For purposes of this paragraph, “public safety
40 infrastructure” means the street and highway evacuation routes,

1 hospitals, and other public safety infrastructure necessary to
2 respond to a flood emergency.

3 (4) The willingness of local agencies to participate in
4 implementing the proposed action.

5 (m) Wherever feasible, the recommended actions in the plan
6 shall be designed to meet multiple objectives, including each of
7 the following:

8 (1) Reducing the risk to human life, health, and safety from
9 flooding.

10 (2) Promoting natural dynamic hydrologic and geomorphic
11 processes.

12 (3) Reducing damages from flooding.

13 (4) Increasing and improving the quantity, diversity, and
14 connectivity of riparian, wetland, flood plain, and shaded riverine
15 aquatic habitats, including agriculture and the ecological values
16 of these lands.

17 (5) Minimizing the flood management system operation and
18 maintenance requirements.

19 (6) Promoting the recovery and stability of native species
20 populations and overall biotic community diversity.

21 (n) For the purposes of preparing the plan, the department shall
22 collaborate with the United States Army Corps of Engineers and
23 the owners and operators of flood management facilities.

24 8727.5. Upon adoption of the plan by the board, all of the
25 following apply:

26 (a) The facilities identified pursuant to subdivisions (d) and (e)
27 of Section 8727 shall be deemed to be part of the system.

28 (b) The board shall take all actions necessary to remove facilities
29 identified pursuant to paragraph (2) of subdivision (h) of Section
30 8727 from the State Plan of Flood Control for the Central Valley.

31 (c) The department shall prepare, and the board shall adopt, a
32 schedule of implementation for all of the recommended actions.
33 The schedule shall include a proposed funding plan.

34 8728. Consistent with the adoption of the Sacramento-San
35 Joaquin River Flood Management System Plan, pursuant to ~~Article~~
36 ~~8 (commencing with Section 8724) of the Water Code, this article,~~
37 each county shall collaborate with cities within its jurisdiction to
38 develop flood emergency plans.

39 8728.1. Consistent with the adoption of the Sacramento-San
40 Joaquin River Flood Management System Plan, pursuant to Article

1 8 (commencing with Section 8724) of the Water Code, each city,
2 county, or city and county shall collaborate with the state and local
3 flood management agencies to provide relocation assistance or
4 other cost-effective strategies for reducing flood risk to existing
5 economically disadvantaged communities located in nonurbanized
6 areas.

7 8728.2. Consistent with the adoption of the Sacramento-San
8 Joaquin River Flood Management System Plan, pursuant to ~~Article~~
9 ~~8 (commencing with Section 8724) of the Water Code, this article,~~
10 each city, county, or city and county shall collaborate with the
11 state and local flood management agencies to develop funding
12 mechanisms to finance local flood responsibilities.

13 8728.3. *Notwithstanding any other provision of law, this article*
14 *applies to all cities, including charter cities, and counties included*
15 *in the plan, pursuant to Section 8727. The Legislature finds and*
16 *declares that flood protection in the Sacramento-San Joaquin*
17 *Rivers drainage is a matter of statewide concern and not a*
18 *municipal affair as that term is used in Section 5 of Article XI of*
19 *the California Constitution.*

20 ~~SEC. 14.~~

21 *SEC. 11.* If the Commission on State Mandates determines that
22 this act contains costs mandated by the state, reimbursement to
23 local agencies and school districts for those costs shall be made
24 pursuant to Part 7 (commencing with Section 17500) of Division
25 4 of Title 2 of the Government Code.